



Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

January 10, 2007

INDIANA BULLETIN NO. IN 440-7-4

SUBJECT: PGM- Requests for Cancellation or Termination of Conservation Program
Contracts for Programs Administered Through ProTracts

Purpose: To provide instruction and policy for canceling or terminating contracts that are administered by NRCS and managed through ProTracts. With the issuance of this bulletin all previous Cancellation or Termination forms are now invalid and will no longer be accepted.

Expiration Date: September 30, 2007

Background: It is occasionally necessary to cancel or terminate a program contract for a variety of reasons. When this need arises, NRCS must ensure that policy is followed and agency and client interests are protected. To process requests for cancellation or termination in an accurate and timely manner, Indiana will use the attached Program Cancellation and Termination forms and process them according to the steps outlined in this bulletin.

A Conservation Program Contract (CPC) may be cancelled by both parties, or terminated for cause by NRCS. In either event, the obligations contained in the CPC are ended through action that ends the responsibilities of both parties to the contract. There is a slight, but significant difference in the terminology used when CPC obligations are ended, as follows:

Cancellation — a cancellation is requested by the participant and is an *equitable remedy* that allows both parties to the contract to end the contractual relationship. Cost recovery may or may not be appropriate depending upon the circumstances included in the participant's written request for cancellation.

Termination — a termination is requested only by NRCS and results from a material breach of the terms and conditions of the contract. Terminations for cause will usually result in a cost recovery of payments, interest, and liquidated damages associated with the administration of the breached contract.

The following procedures must be followed by District Conservationists (DC), and others, for all EQIP, WHIP, and CSP contract cancellations or terminations:

Dist: 0

1. If the participant requests contract cancellation the participant must complete the “*Conservation Program Contract (CPC) Participant Request for Cancellation*” form attached to this Bulletin. This form must be completed, signed, and dated by the participant and returned to NRCS. NRCS will not complete any part of the first 2 pages of this form but will complete, with the participant, the potential cost recovery calculation on page 4 of the “*Conservation Program Contract (CPC) Participant Request for Cancellation*” form.
2. If NRCS requests contract termination or once the participant has signed a request for cancellation form then NRCS will use the attached “*Conservation Program Contract (CPC) Cancellation or Termination*” form. The DC must complete **Section A** of this form by providing all of the requested information including any attachments. The DC must sign and date **Section A**.
3. Before a contract termination is requested by NRCS a Contract Review (NRCS-CPA-13) must be completed and thoroughly documented. The participant must be given a reasonable time frame in which to take corrective action. Required actions and schedules must be documented on the NRCS-CPA-13 or on NRCS-CPA-153. See 440-V-CPM, Amend. 32, October 2006 Part 512, Subpart F for additional information. If participant cannot or will not agree to complete the contract obligations, then proceed with the termination request.
4. All forms and all supporting documents will be forwarded to the Area Conservationist (AC), or their designee, for review.
5. The AC will complete **Section B** by making a recommendation on contract cancellation or termination and thoroughly stating their reasons. The AC must sign and date **Section B** and forward it and all original and any additional documentation as follows:
 - a. If termination or cancellation is **not** recommended the AC will return the form and supporting documents to the DC and provide instructions for action.
 - b. If termination or cancellation **is** recommended the AC will forward the completed form and supporting documents to the Assistant State Conservationist (Programs). This recommendation must include the Area Conservationist’s recommendation for recovery of costs. If recovery of cost is not recommended or the AC is concurring with and recommending reduced cost recovery documentation **must** be provided.
6. The ASTC-Programs will complete **Section C**. The Assistant State Conservationist (Programs) will make a recommendation based on a programmatic review of the contract and program policy. The Assistant State Conservationist (Programs) must sign and date **Section C**.
7. Potential cost recovery will be agreed to and entered in **Section D** by Programs and Financial Management staff. **Section D** will be signed by representatives of Financial Management and Programs as appropriate. The form and supporting documents will be forwarded to the State Conservationist for action.
8. The State Conservationist will make the final decision on cancellations and terminations, and will determine whether NRCS will pursue cost recovery.
9. The STC will return the form and supporting documents to the AC and provide instructions for action if the contract is **not** canceled or terminated.

10. If the contract **is** cancelled or terminated, the State Conservationist will send a letter to the participant(s), with a copy to the DC, AC, and APS canceling or terminating the contract and advising participant of appeal rights, if any. The decision becomes final upon receipt of the letter. The Programs Staff will cancel or terminate the contract in ProTracts and advise the DC once the appeal rights have expired.
11. If the State Conservationist decides to pursue cost recovery, the Programs and Financial Management staff will work together to generate a letter to the participant for the billing process.

The policy for canceling or terminating program contracts can be found in (440-V-CPM, Amend. 32, October 2006) Part 512.57 paragraph's A through D.

If you have questions concerning the guidance in this memo, please contact your supervisor or the Programs staff.

/s/

JANE E. HARDISTY
State Conservationist

Attachments